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MEMORIAL

TO THE

LEGISLATURE OF KENTUCKY BY THE

STATE SOVEREIGNTY SOCIETY OF OHIO,

PRESENTED

TO THE SENATE MARCH 5, 1867.

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MEMORIAL ON THE CRISIS.--1867.

Mr. CARLISLE presented the following memorial from the State Sovereignty Society of Ohio, which was ordered to be printed, and referred to the Committee on Federal Relations, viz:

The State Sovereignty Society of Ohio respectfully addresses the Kentucky Legislature upon the remedy for the political and social crisis, which we believe to be in your hands. The safety of the Union, and of the whole Federal system, is suspended upon what may now and hereafter be done by the people of these two great interior States.

They are central States, contact States, sovereign States, important States, different States in their institutions, yet States which can have none but a common fate. Between the great cities of Louisville and Cincinnati, as between two massive columns, the gates of the temple of peace and war can be opened or closed. Upon us hangs, much more than upon any other section of the country, the next act of the drama of revolution.

Your part in the future should be active, and ours will not be passive, when you have given us an opportunity for co-operation. It will not do for either of us to say we despair or concede our proud position to others. We should go forward and take our proper responsibility. The States of Virginia and Kentucky, in 1798, were not to be daunted by danger, nor misled by evil counselors; nor did they attempt to meet the menace of Imperialism by irresolution and inaction. They met it, as we have to meet it, by the use of means; and not by complaining and scolding and declamation, but by wise, organized, and deliberate action. As Mr. Jefferson, in almost his last hours, wrote, it was the most important action of his life the stand he and his friends took to resist the centralization of Hamilton and Adams. It was a determined and successful resistance, made by a few patriots at first, but by the aid of the two States referred to—mother and daughter—acting under their advice.

The genius of Thomas Jefferson has made our pathway plain. We have but to follow in his footsteps upon this emergency, as the patriots who

smote the aggressions of Congress on the rights and the sovereignty of the States.

Our Society has long and deeply studied the dangers of the country, and also the only mode of escape. It has been the topic of constant investigation for two years past, and has occasioned innumerable debates. On the 11th inst. we assembled, with full previous notice and preparation. We invited the presence, and the written as well as the spoken opinions, of many eminent Democrats. We read and considered their letters. We sat three days endeavoring to arrive at wise conclusions. We have put our opinions into a set of resolutions, which are inclosed. The seventh resolution is the occasion of the present appeal to the Kentucky Legislature:

"7. *Resolved*, That the Committee on Resolutions prepare at once a memorial on this subject from our Society to the Kentucky Legislature, and forward it for their consideration, with our most urgent and respectful entreaty that it may have the profoundest thought of every statesman in both branches of that great deliberative body."

And therefore, upon this serious day, by such a command, the Committee proceed to make this communication.

It will be perceived, without explanation, that there is such an accumulation of public calamity arising out of the action of the Federal Congress, that we need not make any specifications. The utter overturn and annihilation of every vestige of the State form of specific States which have incurred the displeasure of other more numerous States, is to be accomplished by the aid of the border States of Kentucky, Tennessee, and Missouri. The ten sovereign States which are to be sacrificed have come out of a war of four years and more, which ended in terms of capitulation with the commanding Generals of the conquerors, but which there has been no attempt to carry out, although no stronger guaranty could have been given. On the contrary, it is proposed to deny to the States themselves any political existence, and to their citizens any political rights, not even the right to earn a living or to enforce a contract. More than that, and far worse than the condition of slavery to an intelligent master, the proud and superior white race are to become serfs and servants to their former slaves of the African race, suddenly endowed with the franchise and made eligible, high and low, to every office. Not only is this upheaval of society to be enforced by law, but the bayonet is to be exclusively placed in the same hands as the ballot; so that military black force may make quick work with the opposition of any body to this worse than Oriental despotism. In short, if, in the present struggle

between power and liberty, the course of the conquerors cannot be by some mode arrested, the citizens of the threatened States will have cause to envy the fate of the aborigines whom they have displaced.

Not contented with the desolations of war, which have covered so great a surface at the South with vast blotches of human gore, the horrors of peace are to exceed them; for, by a fatal process, the policy deliberately proposed by Governor Cox of Ohio for four Southern States is to overtake them all. His solution of the negro question was only to drive the whites out of South Carolina, Florida, Georgia, and Mississippi, and give them all up to the blacks; but the policy of Congress is to Africanize the whole of them.

Congress is possessed of a theory which allows the use of what are called pacific means for the execution of their diabolical purpose—a purpose which owes its being to the conjunction in the Northern breast of hatred and fear of the slaveholder, and not to a pretended philanthropy for the slaves.

The members of this Society have been, and are now, greatly concerned about the proper remedy for this awful state of things. They believe that they have found it, and that it is their duty to recommend it to the State of Kentucky, and that she should respond to their recommendation. If it be true, as claimed by Congress, both in theory and practice, that that body of public servants have the right to construe the extent of their own powers, then, of course, it is all in vain to talk of extrication from the present or any other calamity; for there is no longer any Constitution, nor any use for any; the will of Congress, not in pursuance of it, is as much the supreme law of the land as when it obeys the Constitution. It is the simple *regime* of good pleasure. *Sic volo; sic jubeo.*

We oppose, we deny, we confront, that assumption of doctrine. There is not any foundation for it; and no matter how, or by whom asserted, it is false, monstrous, and revolutionary. It must, it does, assume that there are no States in any union of States; but that the map of the United States, as well as the Constitution of the United States, is falsely entitled, and that the lines upon it are not State lines, but only district lines—municipal lines—county lines—over all of which Congress can make a clean breach at will and for any purpose.

Our doctrine is the old, consecrated, historical, and philosophic doctrine, that a State is a State-integer and not a State-cipher, which is no State at all; and that what makes a State, is a territory with a people old enough, strong enough, civilized enough, free enough, independent enough, to be sovereign master of its own actions, and to bind itself by its own agreements, and to dispose of itself by its own volition—such a political

community as Kentucky or Ohio. We do not hold that the Territories are entitled to self-government, nor that they are capable of it; for we reject both propositions. Congress has the right to govern them, because they are sparsely settled lands, which, by conquest or treaty, have been acquired by the United States, and are effectually covered by both the negative and affirmative clause of the Constitution. That Constitution recognizes them by the clause about the admission of new States, as lands held in trust for the peoples that may inhabit them; and it expressly provides that Congress shall legislate for them by that sweeping clause which gives Congress the power to pass all laws necessary and proper to carry out the trust, to its object of, in due time and by a familiar process, becoming self-governing States. It is not correct to say that the only clause applicable to the case is that conferring on Congress power "to provide rules and regulations for the territory and other property of the United States." To that effect are the high authorities in the Supreme Court Reports, and in the great Senatorial Debates.

Such a people upon a given territory constitutes a State; it possesses the Constitution-making power, and, under our system, whenever any such territory contains one hundred and thirty thousand inhabitants of Caucasian descent, it rises to that condition. It is then a sovereignty, that may constitute itself by a republican organization, and demand admission into the Union as a NEW STATE; but as free, sovereign, and independent a nation as any one of the original States—parties bound of course to observe the Federal compact as long as the relation continues, but always remaining in a condition to defend the Constitution against violations of it which threaten her existence, by forbidding their execution within her limits; or, if the usurpations become intolerable, justified in withdrawing from the connection, so as to secure her liberties from destruction.

This Constitution-making power has always been possessed, and it is now possessed, by all the States—by the original thirteen not more nor less than by the rest; for there can be no territory held by conquest, even if it were Cuba or Canada, under our Constitution, which will not come to State-hood whenever its population and circumstances allow. The analogy of youth and manhood in the individual is perfectly applicable to the immature and the mature State. As either attains majority, it becomes its own sovereign master, irrespective of all others, and with the same rights, duties, powers, and responsibilities that belong to the respective organizations. If that be so of foreign conquered territory; if, then, we must at once admit the right of the people of a mature State to self-govern-

ment and the prospective right of an immature one, how can we deny it to our own States and peoples, even upon the odious hypothesis of war between the States and conquest of some of them by the others? It cannot be done.

The means of holding the Gulf States in violent subjection will be both men (soldiers) and treasure (money); which will require both extortion and conscription to provide them. Our experience proves, however, that for a time at least, Congress will not relax her demands. Taxes by direct and indirection will continue to be laid and collected, and soldiers by draft and volunteering to be raised.

This will furnish the occasion for our resistance; for the acts of Congress, violating the Constitution in these particulars as much if they superseded the Executive and the Judiciary without trial, can be met by the veto of the State of Kentucky, or of any other State. Fortunately, her Democratic citizens and their representatives in the Legislature have a large majority. They can take such mode of redress for the tyranny of Congress as they shall decide to be just and honorable and wise. They can forbid effectually the draft of whites or negroes in Kentucky under Mr. Paine's bill. They can likewise forbid the unauthorized and unconstitutional direct whisky tax; and there are many others, besides these two measures, by which they can indicate the vital principle of State sovereignty for their own benefit, but most especially for the benefit of the degraded, insulted, enslaved sister States of the South.

The end can be reached by a law calling for the election of delegates to a State Convention, to be chosen and paid like members of the Legislature. The preamble to the law should set forth the state of the country which demands State interposition. Other acts would be necessary to protect courts, juries, officers, and citizens, obeying State authority in the premises, all of which can be promptly furnished by the friends of liberty and of our institutions established solely for its security.

It is not possible to find any other plan but ours which will meet the occasion.

The President can only resist Congress when the majority there is not two thirds; but it is more; and in the new Fortieth Congress, which sits on the 4th of March, for the very purpose of continuing the work of destruction, the majority will be worse in quality and more in numbers. If we had reasons to intrust the liberties of the States, therefore, to the Executive, as we have not, he has no power to deliver us.

The Congress itself, as stated by a great vote in both branches, has ceased to hold itself in check; on the contrary, there is a positive rivalry

between the House and Senate which shall surpass the other in acts of despotism.

The Supreme Court is only constituted to try cases, and therefore has a small jurisdiction compared with the extent of the mischief. It is a tribunal naturally inclined to usurpation of power against liberty, and its past history, almost as much as its present partisan character, disqualifies it to arbitrate or adjudicate the tremendous issues pressed by force upon the minority of States by the majority.

If these views be true, we have a very pointed question to ask those who hold to such means of interposition, but have nothing to say when they are totally unavailing. That question is, how can you deny to a sovereign State, in defense of State existence, threatened by a set of public servants in Congress who are jointly nothing but State agents, the right to interpose the ægis of her sovereignty over the violated Constitution? If one man, the President, and he a public servant, might interpose, why can't a State? If a small majority of one in either branch of Congress may arrest legislation at pleasure, and without any reason, why may not a State? If five judges against four of the Federal Bench, by one vote, may declare an act of Congress, no matter how important, null and void, why should not a State do the same thing by that solemn and ever divine voice of her people, which, from remote and classic time, has been called, not impiously, the voice of God—*vox populi, vox Dei*?

We know that we have not exhausted the evasions practiced on similar occasions to prevent the exercise of the State veto. It is proclaimed that the minority of States that have been oppressed by the majority of States, acting by their power in Congress, should appeal for their remedy to the ballot-box. This is another mistake of both theory and practice. It is an error of diagnosis, coupled with another error of therapeutics. The disease and the remedy are wholly misconceived, and of course there can be no result except one that is either fatal or accidental.

The ballot-box alluded to is nothing but the source of the oppressive power; it is the will of the majority of the States legally expressed. Consequently, an appeal to it is nothing but a formal appeal to the very tyrant himself. It is true that no free government can exist without universal suffrage; but that is for the reason that the constituents in such a State must have the absolute control of their servants, and the power to dismiss them commensurate with the power to give them employment. That is, however, but one of the two conditions indispensable to popular institutions. It is all-important in its place; but it can effect nothing in a case like the present. It will but confirm the original outrage.

The other condition of such institutions is, that the parties (States) to the Union shall have the right and power of self-protection; in brief, that each State, encircling, as all do, the very ark of the Constitution, shall be able within her territory to veto every dangerous Congressional assault upon its sacred authority.

This assertion of power by the sovereign State of Kentucky will accomplish the deliverance of the vassal States—the mediatized States—the now outlying provinces of the Empire—the Egypts, Sicilies, and Frances and Spains and Britains of old Rome—the Hungaries and Polands of Russia and Austria—the Indias and Irelands of England.

There is no other means under heaven by which their destiny can be changed. There is this means, which has received the great indorsement of Thomas Jefferson, at the instance of Kentuckians and for the State of Kentucky. It effectually accomplished the object, although avowed by only two States, less than one sixth of the whole number in the Union. The discussion itself, like the world-famous debate of ten years, from 1765 to 1775, between Great Britain and the Colonies, will have obtained at once that moral and intellectual victory which renders the armed contest comparatively easy. But the Virginia and Kentucky Resolutions of 1798–9 completely silenced the other side, enforced, as they were, by the report of Mr. Madison. The good sense of the citizens immediately accepted the reasoning and conclusions of the great statesman who led the contest for State sovereignty.

The ballot-box, when thus converted from its previous perversion, came over to the right side, and installed the champions of a true and triumphant doctrine of our Federal system in absolute command. By the election of Jefferson, Madison, and Monroe, the original direction was pursued so long that the system worked altogether in harmony with its principles. For forty or fifty years out of the sixty-six since elapsed, the Democracy have been in power, and the original direction from Virginia and Kentucky has been pursued up to the calamitous period of the war.

Since violence begun, we have been in the vortex of revolution, and still whirl about in its inner circles, with no possible means of extrication except what we have advised.

The time has surely come for the statesmen of the interior States to speak decidedly. If we will penetrate the disguises of the Atlantic policy which prevails in Congress, we will find that our great producing States are only the servants, and their people the serfs, of Eastern masters. These sowed the seed of distrust between the agricultural free-traders that grew corn and those that grew cotton, by yelling out their philan-

thropic distress over the down-trodden African, until our honest fellow-citizens of the Northwest began to feel that they were liable for the crime against man and the sin against God. Then followed divisions and criminations, and free trade was slaughtered in the house of its friends, long ago, by the cunning device of a stranger. Then came that stranger's false clamor for protection for American industry, which meant low wages for the operatives, and cheap and meagre living, high rents, and factory impositions on all ages and both sexes; but great, swelling prosperity of fat dividends on huge investments for the rich and greedy owners of capital. By that cunning trick of protection, the Mississippi Valley is annually skinned of her native alluvium, which is carried in bushels of corn and gallons of whisky, in barrels of beef and pork, and tierces of lard and bacon, as tribute money paid by dupes who do not deserve the care of Providence, much less his bounty, to make all the rocks of New England unctuous, and its lean and rugged soil to produce a fabulous profit, while the atmosphere breathes the odor of our rose.

When these "royalites" were put in jeopardy by the better understanding of both the free trade argument of South Carolina and the protection fallacy of Massachusetts, then abolition philanthropy experienced a paroxysm out of which sprang the monstrous sectional and social war of 1860-5, which will be to our history what the civil and social war of the first century before Christ was to Rome.

That was a secession struggle between about the same number of parties on both sides. In it half a million of men were sacrificed, with the same result that we have attained. The consequent injustice of the victors to the vanquished, in degrading them among the Roman tribes, so as to destroy their equality of political power, was one of the strongest impulses which sped the Roman Republic on to her dark, degenerate, and fallen state under the usurpers, gladiators, prætorians, and emperors, which succeeded at last in blotting the Mistress of the World from the family of independent European States.

The profits of the tariff system furnished the mainspring of the war. It was to renew that desperate clutch on the purses of farmers and planters that Yankee manufacturers persuaded and inflamed the thoughtless and superficial caucus leaders and managers of the Northwest into hostilities with their best friends, their nearest neighbors, their valued customers, the households of the Southern States. They inspired the masses of the Northwest with their own fanatical, cruel, parsimonious, and exacting spirit. They taught us to covet the goods of our brethren by a most unnatural and ruinous war. They carried us enthusiastically and heed-

lessly along with their untenable and vicious theory of the constitutional system, until now they have got us into an open sea, in a raging storm of their own raising, and lifted out of the stout ship of State launched by Thomas Jefferson from the same dock with our own political cradle, the famous Ordinance of 1787, into the crazy wherry of modern and dishonest origin from the hands of Story and Webster, the Adamses and Curtises and Everetts.

The desire of gain at another's expense, and the consequent hatred of those they have deeply injured, are the real sources of the late war upon the Constitution of the United States, not less than upon ourselves and the Southern States. Our great valley has become the patrimony of strangers. We, who have it by purchase or by inheritance from those whose conquest of the whole domain was one of the most daring and glorious exploits in history, do not hold our possession any longer in fee-simple, but as rack-rent tenants, who, when they have satisfied the landlord and tax-gatherer, must borrow to live. And to that low condition have the most intelligent body of cultivators under heaven, on fertile soil, in a favorable climate, and with the almost imperceptible burthen of perfectly free institutions, descended quickly and hopelessly. A condition of forfeiture from over taxation has insensibly fallen into these leaseholds. The holders of the bonds, given without consideration, for wasted property and lives, have escaped their own proper burthens of taxation and doubled ours. They have obligations payable, principal and interest, in gold, but they pay no tax. We have to pay for them to the extent of all our property as it was before the war, and also pay our own heavy assessments, which would seem to be an impossible injustice, if it were not every day upon us, and a mortgage of all we call property which is both seen and felt.

As such a state of things cannot long endure by consent of the victims, measures of the most desperate character are being taken to coerce the indefinite and prompt future payment of the bondholders, no matter what may be the depreciation of estates, the diminution of other incomes, the sufferings of families, and the general prostration of trade. The means of coercion will be the arming of large bodies of troops out of a general enrollment of the adult youth, both white and black, and drilling and educating them to war. By a bill now before Congress, the measure is fairly on the way to its passage. It is an utter defiance of the States; it is the *nil ultra* of rampant systematized attack in front upon the whole body and spirit of free institutions. We shall not dwell upon it.

The Legislature of the State of Kentucky stands in the breach through which the enemies of the Constitution have to pass. Its responsibility is

that of *Horatius Cocles*, who guarded the bridge of the Roman suburb over which the Etrurians must march into the capital. It looked like desperation for one man to attempt to hold such a position; but he did it till the Sublician bridge was broken down with swords and axes behind him, and afterwards he made good his own retreat through the roughest waves of the Tiber and thousands of hostile spears and arrows. He saved his country from Porsena's attempt to restore to a throne in Rome the detested line of the Tarquin monarchs. The fate of the Republic that day was suspended on the desperate resolution of a single hero. While he held the entrance of the bridge he not only fought but he upbraided the enemy. Livy says that he exclaimed: "Sometimes that he challenged them singly; sometimes upbraided them altogether as the slaves of haughty kings, who, incapable of relishing liberty themselves, had come to wrest it from others."

It is our clear opinion that we have before us the same historical example. Aliens to our blood, strangers to our people, opponents of our opinion, and enemies of our institutions, if they meet no opposition, will take us all into their cold embrace, and strip us as well as the Southern States, so lately our friends and allies, of every vestige of our precious liberty, and all security for its return.

We have described the danger; we have dwelt upon the means of safety; we appeal again to the people and Legislature of Kentucky to take the initiative of organized resistance, to which we can soon add our strength as individuals and as the great Democratic party of Ohio, now over two hundred thousand voters, or one million of citizens. You can evoke these powers, if you will seize the grand occasion. You can converge them upon the common enemy and save the Federal system by a legitimate exertion of innate, sovereign omnipotence. Thus will the State of Kentucky, a second time, have the honor of coming at a crisis worthy of modern or of antique fame to the rescue of the Constitution.

ALEXANDER LONG,
Chairman Committee.

I. J. MILLER, *Secretary Committee State Sov. Society of Ohio.*



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